



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,508	11/03/2006	Jean-Michel Defert	P30247	2161
7055 7590 10/15/2010 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER MERLINO, ALYSON MARIE				
ART UNIT		PAPER NUMBER		
3673				
NOTIFICATION DATE		DELIVERY MODE		
10/15/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/597,508

Applicant(s)

DEFERT, JEAN-MICHEL

Examiner

ALYSON M. MERLINO

Art Unit

3673

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Carlos Lugo/
Primary Examiner, Art Unit 3673

Continuation of 11: In regards to applicant's remarks concerning the claim objection to claim 5, the examiner respectfully disagrees, noting that applicant argues that the electromagnet is in reference to an electromagnetic core, however, the claim language is still unclear. It is clear that the "device" only includes an electromagnetic core and the movable plate, not another electromagnet, as suggested by the claim language. It is also clear that the plate only interacts with the electromagnetic core, and not another "electromagnet." If applicant intends to claim that the electromagnetic lock includes an electromagnet device having an electromagnetic core and a movable plate functioning as the armature, then the claim language should reflect this. In regards to applicant's remarks concerning the rejection of claims 5-32 under 35 U.S.C. 112, second paragraph, the examiner respectfully disagrees, noting that applicant's device requires the missing features to operate. Specifically, the claims recite that the sliding bolt is linearly moveable, and it is clear from the understanding of the device, the drawings, and the specification that the guide means are used to ensure that the plate is "linearly" movable causing the bolt to be linearly moved. Without the guides recited in the claims, the plate of the device is just hanging in space and is not connected to the body of the lock; therefore, it is clear that these guides are essential to the device as shown in Figures 1-3. Furthermore, as discussed in the rejection above, the device is an electromagnetic lock; however, the locked and unlocked positions are not recited in the claims to relate the locking and unlocking of a door to the operation of the device. Moreover, applicant contends that the examiner has misunderstood MPEP 2172.01. The examiner would like to draw applicant's attention to an exert from MPEP 2172.01 which states "A claim does not necessarily fail to comply with 35 U.S.C. 112, second paragraph, where the various elements do not function simultaneously, are not directly functionally related, do not directly intercooperate, and/or serve independent purposes." In the current application, the elements of the device, such as the plate and the guide means, function simultaneously through the cooperation of the guides with the plate to ensure that the bolt moves "linearly" as claimed, with the guides and plate being directly functionally related so that the plate is connected to the body of the lock and so the bolt moves "linearly" as claimed, by the plate being guided during operation by the guides; the guides and plate directly intercooperate to ensure the linear movement of the bolt, and the guides do not serve a purpose separate from guiding the plate, moving the bolt "linearly" as claimed. It is clear that all these conditions are met, and therefore, the claims do fail to comply with 35 U.S.C. 112, second paragraph. Also, applicant submitted two board decisions for the examiner's consideration. This decisions were considered but were not persuasive, and therefore, the rejections of claims 5-30 under 35 U.S.C. 112, second paragraph, are maintained. In regards to claims 5 and 31, the claims are contradictory because claim 5 requires one of the limitations discussed in the alternative, but claim 31 requires both, so that if one chooses that claim 5 includes the movable plate limitation, then claim 31 doesn't further limit claim 5 regarding that limitation. In regards to applicant's remarks concerning the interview request, the interview was denied because the 112 rejections have already been discussed in prior interviews and there were no new issues to discuss.